

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,
Plaintiff,
Counter-defendant,

vs.

Case No. 4:20-cv-05640
YGR

APPLE INC.,

Defendant,
Counterclaimant.

IN RE APPLE IPHONE
ANTITRUST LITIGATION

Case No. 4:11-cv-06714
YGR

(caption cont'd)

HIGHLY CONFIDENTIAL OUTSIDE ATTORNEYS' EYES ONLY

ZOOM DEPOSITION OF LORI WRIGHT

(Reported Remotely via Video & Web Videoconference)

Palo Alto, California (Deponent's location)

Friday, April 16, 2021

Volume I

JOB NO. 4544487

PAGES 1 - 290

Page 1

1 DONALD R. CAMERON, et al.,

2 Plaintiffs,

3 vs.

Case No. 4:19-cv-03074

YGR

4 APPLE INC.,

5 Defendant.

6
7
8
9
10 *HIGHLY CONFIDENTIAL OUTSIDE ATTORNEYS' EYES ONLY*

11 ZOOM DEPOSITION OF LORI WRIGHT

12 (Reported Remotely via Video & Web Videoconference)

13 Palo Alto, California (Deponent's location)

14 Friday, April 16, 2021

15 Volume I

16
17
18
19
20 STENOGRAPHICALLY REPORTED BY:

21 REBECCA L. ROMANO, RPR, CSR, CCR

California CSR No. 12546

22 Nevada CCR No. 827

Oregon CSR No. 20-0466

23 Washington CCR No. 3491

24 JOB NO. 4544487

25
Page 2

1 remove the spotlight, and then someone keeps 09:20:50
2 resending me on spotlight.
3 CONCIERGE TECHNICIAN: Actually, what we
4 would want to do is go up to the top right where it
5 says "View" and hit "Gallery View." 09:20:59
6 (Technical comments off the stenographic
7 record.)
8 Q. (By Mr. Calandra) So did you -- did you
9 get that set?
10 A. Yes. Thank you. 09:21:26
11 Q. I know. No worries.
12 In connection with your preparation, did
13 anyone show you documents that refreshed your
14 recollection?
15 A. There was a set of emails that I looked 09:21:38
16 through to -- that I had sent personally to -- to
17 recall some of the dialogues that had gone back and
18 forth.
19 Q. Sent personally to Apple, or to other
20 folks? 09:21:55
21 A. Sent personally by me to Apple.
22 Q. Okay. Did they help refresh your
23 recollection?
24 A. They did.
25 Q. What -- what emails were they that you 09:22:05

1 recall? 09:22:09

2 A. There were several.

3 There was an email that I sent following
4 our first meeting with Apple to propose some
5 solutions to the issues that we had raised in the 09:22:23
6 meeting.

7 There was an email -- there were multiple
8 emails with me going back and forth with Apple
9 proposing solutions to how we thought we could have
10 a workable solution. 09:22:44

11 And other email that I recall in that
12 would be just correspondence on arranging various
13 meetings with Apple.

14 Q. And -- and these emails all relate to the
15 issue of xCloud? 09:23:08

16 A. Correct.

17 Q. Okay. Did you look at any -- did any
18 documents refresh your recollection that did not
19 relate to xCloud?

20 A. No. 09:23:18

21 Q. Okay. I think you already told us that
22 you didn't communicate with anyone, other than
23 Microsoft or Microsoft's lawyers, in preparation
24 for the deposition.

25 Was that a -- am I correct in that 09:23:32

1 however, they do not allow for catalogs to be
2 published without individually breaking out every
3 game as a separate binary containing the streaming
4 technology within each and every game.

09:35:23

5 Q. Apple's main objection, to you, was that 09:35:39
6 they wanted to make sure that each binary had been
7 submitted for App Store approval, right?

8 MR. CHIAPPETTA: Objection. Foundation.

9 THE DEPONENT: Apple did not give us
10 reasons why they wanted -- what they had asked for. 09:35:58

11	What they had asked for was for us to	
12	deconstruct our catalog and take a product that we	
13	had built that represented where gaming is going,	
14	similar to where music and movies had gone, to	
15	aggregate a catalog and have that as a single	09:36:23
16	application and be able to access that as a single	
17	catalog. Apple did not tell us why they told us	
18	that we must deconstruct that, which would be	
19	similar to asking Netflix to deconstruct its	
20	catalog and have a separate app for every music --	09:36:40
21	or every movie and every TV show, or asking Spotify	
22	to deconstruct and have an application for every	
23	song.	

24 Q. (By Mr. Calandra) Did -- did Apple

25 explain to you what its security concerns were with 09:36:50

1 your preferred construct? 09:36:54

2 A. Apple did not explain why. We asked on
3 several occasions. It was not the -- in any
4 conversation we had, there was not a clear
5 explanation, other than to say we are software and 09:37:10
6 they are not.

7 Q. "They" -- "they" being?

8 A. Netflix, Spotify, any other form of media
9 and entertainment.

10 Q. Okay. We are going to come back to that 09:37:24
11 in some emails a little bit later.

12 Do you have an understanding as to
13 whether or not an Epic victory would impact a
14 developer's ability to distribute apps on -- on
15 the iOS platform without paying Apple a 09:37:41
16 commission, meaning through some means other than
17 through the App Store?

18 MR. CHIAPPETTA: Same objections.

19 THE DEPONENT: Can you repeat the
20 question, please. 09:37:53

21 Q. (By Mr. Calandra) Yeah.

22 Do you have an understanding that an Epic
23 victory may result in -- in developers avoiding
24 paying Apple commissions through the App Store?

25 MR. CHIAPPETTA: Same objections. 09:38:05

Page 37

1 Q. Well, I -- I assume that Epic has some 10:37:39
2 apps that it -- that it distributes on the
3 Microsoft Store, right? Fair enough?

4 A. I believe that to be true, yes.

5 Q. Okay. You are not sure if that's true? 10:37:54

6 A. No, I'm sure -- I believe that to be
7 true.

8 Q. Okay. Well, so what other relationships
9 exist? So we have a relationship of Microsoft
10 being, essentially, a digital marketplace and -- 10:38:05
11 and Epic being, essentially, a developer of apps
12 that will put on its market.

13 Any other relationships, other than that
14 developer, sort of store relationship?

15 MR. CHIAPPETTA: Compound. Also 10:38:20
16 foundation.

17 THE DEPONENT: I -- as I stated earlier,
18 I don't manage the Epic partnership or
19 relationship.

20 Q. (By Mr. Calandra) Okay. So do you -- 10:38:33
21 does that mean you have no dealings professionally
22 with Epic?

23 A. That's accurate.

24 Q. Okay. And fair to say, then, you haven't
25 spoken to anybody at Epic about its commissions? 10:38:48

1	A. I have not.	10:38:55
---	----------------	----------

2 Q. Okay. So let me just be -- make sure the
3 record is completely clear.

4	Have you had any communications at all	
5	with Epic?	10:39:04

6 A. I have had one communication with Epic
7 unrelated to anything regarding commissions or any
8 of the topics we are discussing right now.

9 Q. Okay. Well, what was it relating to,

10 then? 10:39:33

11 A. It was relating to an outreach by Epic
12 who was offering us an opportunity, as part of
13 their fundraising round, to consider investing
14 because they had offered the same to a -- our -- a
15 competitor of ours, Sony, in which case Sony 10:40:02
16 invested and we declined.

17 Q. Who made that outreach to you?

18 A. It was not an outreach to me
19 specifically. It was an outreach to -- through
20 sources I am not entirely clear on because I 10:40:23
21 sometimes look at investment decisions. I was
22 copied. I was pulled into one conversation, and I
23 had no further conversations on it.

24 0. And around when did that occur?

25 A. I don't remember the dates or when. 10:40:40

1 look at the Epic Store as a place where Epic is 10:56:22
2 building up a place for their games to have
3 transactions in a storefront, and it's not -- it's
4 just not part of my thinking on who's competing in
5 which storefront. 10:56:44

6 Q. Okay. What about the Apple App Store; do
7 you -- do you consider that a competitor of the
8 Microsoft X store -- or the Microsoft Store for
9 Xbox?

10 MR. CHIAPPETTA: Objection. Assumes 10:56:58
11 facts not in the evidence.

12 THE DEPONENT: I do not.

13 Q. (By Mr. Calandra) Why not?

14 A. Because I think about it as an
15 alternative place where you purchase a subset of 10:57:13
16 our games for mobile, but it is not a place where
17 we meaningfully compete for transactions.

18 Q. Do you compete at all, leaving aside the
19 extent to which you compete?

20 MR. CHIAPPETTA: Objection. Foundation. 10:57:30
21 Vague.

22 THE DEPONENT: In -- in any -- none of
23 the conversations that I am in do we look at the
24 Apple App Store as a competing store.

25 Q. (By Mr. Calandra) All right. But your 10:57:46

1 "the download." 11:01:07

2 Q. (By Mr. Calandra) And my example was
3 Fortnite.

4 MR. CHIAPPETTA: Same objection.

5 THE DEPONENT: We don't view them as 11:01:19
6 mutually exclusive, in many cases. We hope that
7 customers will play Xbox on consoles and get
8 Fortnite from Microsoft in order to play on the
9 Xbox console. We don't have a preference on
10 whether they also go and get Fortnite on mobile 11:01:39
11 when they could.

12 And, like, it feels that -- from my
13 perspective, that, yes, we want people to play
14 Fortnite on consoles, and we are working hard to
15 attract people to play on our platform, on our 11:02:02
16 console, and believe that they will have the best
17 experience in doing that when it comes to consoles.
18 So we hope they will play it on our console instead
19 of Sony.

20 Q. (By Mr. Calandra) Okay. So you are 11:02:18
21 competing with Sony's console platform to try to
22 get players to play it on your -- your platform,
23 correct?

24 A. Correct.

25 Q. But you are saying that you are not 11:02:27

1 competing to try to get players to play on your 11:02:29
2 platform instead of or in lieu of a mobile
3 operating system platform like Android or iOS?

4 A. That's correct.

5 Q. And why is it that you don't -- why is it 11:02:40
6 that you are agnostic in the case of a mobile
7 platform; whereas, you are not agnostic in the case
8 of, say, Sony's platform?

9 A. Because if you are choosing Sony's
10 platform, you are probably playing it on Sony and 11:02:59
11 not and Xbox. If you are playing it on Xbox, you
12 are probably playing it on the Xbox plus mobile.

13 Q. Okay. So the -- the people who play
14 on -- on, say, iOS's platform, on the App Store,
15 are -- are, in your mind, likely to also be playing 11:03:21
16 on a console platform that might well be Sony; it
17 might be well Xbox?

18 A. Correct.

19 Q. Okay. Do you have a sense of whether
20 they're more inclined to be playing on a console 11:03:33
21 platform, or are -- are they more inclined to be
22 playing on their mobile platform?

23 MR. CHIAPPETTA: Objection. Vague.

24 THE DEPONENT: I don't have an
25 inclination. 11:03:47

1 MR. CHIAPPETTA: Vague and compound. 11:39:34

2 THE DEPONENT: Insomuch as a wall is a
3 barrier, then, yes, that control allows you to keep
4 things out.

5 Q. (By Mr. Calandra) Okay. We have been 11:39:48
6 using the word "walled garden," but sometimes
7 people refer to it as a "closed system."

8 Have you ever used the word "closed
9 system"?

10 A. We do not ever use the words "closed" -- 11:40:01
11 I do not use the words -- I cannot speak on what
12 others use. I don't refer to it as a "closed
13 system." I refer to our console environment as a
14 "special purpose gaming ecosystem."

15 Q. What -- what do you mean by "special 11:40:27
16 purpose gaming ecosystem"?

17 A. I mean that our hardware and services are
18 designed to promote a special purpose gaming
19 environment whereby the hardware is important
20 insomuch as it's the delivery mechanism for the 11:40:54
21 content. We build the hardware so that consumers
22 can consume the software.

23 Q. You think of the iPhone as a delivery
24 mechanism to deliver apps?

25 A. I -- 11:41:16

1 demanded to use their own payment system on the 12:04:34
2 Xbox store?
3 A. Not to my knowledge.
4 Q. Okay. Has -- has Microsoft, to your
5 knowledge, allow- -- ever allowed any developer to 12:04:42
6 use their own payment system on the Xbox store?
7 A. I don't know.
8 Q. Not to your knowledge?
9 A. Not to my knowledge.
10 Q. Okay. Currently, Microsoft's taken a 12:04:53
11 30 percent commission from developers for all game
12 purchases made on the Microsoft Store for Xbox,
13 right?
14 MR. CHIAPPETTA: Objection. Compound.
15 Foundation. 12:05:03
16 THE DEPONENT: We do take that to
17 subsidize our hardware, yeah.
18 Q. (By Mr. Calandra) Okay. And -- and how
19 did this 30 percent commission get set? Why -- why
20 not some other rate? 12:05:11
21 MR. CHIAPPETTA: Objection. Foundation.
22 THE DEPONENT: I don't know.
23 Q. (By Mr. Calandra) Do you know when the
24 30 percent rate commission was established?
25 A. I don't. I know that it is not always 12:05:21

1 competition, the -- the commission to the platform 12:11:38
2 holders certainly decreases, and it's something
3 that we are seeing in our own PC store where there
4 is, you know, very real, strong competition for
5 stores on PC, and, as a result, we are in the 12:11:56
6 process of changing our store fees because of that
7 competition.

8 Q. (By Mr. Calandra) Do you think the
9 30 percent commission is a fair commission rate?

10 MR. CHIAPPETTA: Objection. Vague. 12:12:14

11 THE DEPONENT: A fair commission rate on
12 PC today, no, which is why we are changing it.

13 Q. (By Mr. Calandra) Yeah, let me -- thank
14 you. On Xbox store.

15 Do you think the -- the -- the 30 percent 12:12:23
16 commission rate on the Xbox store is a fair
17 commission rate?

18 MR. CHIAPPETTA: Objection. Vague.
19 Foundation.

20 THE DEPONENT: I think it's necessary 12:12:31
21 based off -- Redacted
22 based off of us subsidizing the hardware and
23 building a special purpose gaming device, yes.

24 MR. CHIAPPETTA: Make sure I have time to
25 get my objections out. 12:12:41

Page 139

1 deals with the App Store and the Play Store, and I 12:18:43
2 have not been involved in deals with Nintendo.

3 Q. Okay. Did you ever recommend to
4 Microsoft that it ought to change its commission
5 rates on the Xbox store? 12:18:57

6 A. No.

7 Q. Okay. Do you know if anybody internally
8 has made that recommendation?

9 A. I know there's a conversation on whether
10 we should. 12:19:15

11 Q. Okay. People are talking about, but has
12 anybody, to your knowledge, at Microsoft actually
13 recommended it? Gone on record and said, "I think
14 we should change"?

15 A. Not -- 12:19:27

16 MR. CHIAPPETTA: Objection --

17 THE DEPONENT: -- to my knowledge.

18 MR. CHIAPPETTA: -- vague.

19 Q. (By Mr. Calandra) Not to your knowledge?

20 A. Not to my knowledge. Sorry. No. 12:19:31

21 MR. CALANDRA: I'm going to show you a
22 document, which is Tab 4 in my binder, but that
23 doesn't mean anything to you. Hold on one second.

24 This is a document that I would like to
25 show you. It's called "Microsoft Store Policies & 12:19:52

Page 146

1 App Store Principles, January 2021." It seems to 12:19:52
2 be some sort of Microsoft deck, Bates-stamped as
3 -95 range through -109.

4 Let's mark that as the next exhibit in
5 sequence, which I think would make it 12:20:09
6 Defendant's 617.

7 (Exhibit 617 was marked for
8 identification by the court reporter and is
9 attached hereto.)

10 THE DEPONENT: I'm looking at the 12:20:34
11 document. Would you like me to look through it?

12 Q. (By Mr. Calandra) Yeah, 'cuz my first
13 question is simply: Have you seen the document
14 before?

15 A. I have not. 12:20:40

16 Q. I'm going to give you a little bit more
17 time to look through it, and then I will ask you
18 the question.

19 Okay?

20 A. Deal. 12:20:48

21 Q. Let me know when you are ready.

22 A. Okay.

23 Okay. There's a lot here.

24 Q. No doubt.

25 So have you seen this document before? 12:25:32

Page 147

1 Q. (By Mr. Calandra) There was a double 12:29:58
2 negative. I was just trying to eliminate it.

3 All right. Policy No. 2: "We will not
4 block an app from Windows based on a developer's
5 business model or how it delivers content and 12:30:06
6 services, including whether content is installed on
7 a device or streamed from the cloud."

8 Now, that is not a policy that has been
9 adopted for the Xbox store, correct?

10 A. That's correct. 12:30:32

11 Q. Okay. And why has it not been adopted
12 for the Xbox store?

13 A. I have no foundation in that.

14 Q. Okay. I have the same question if you go
15 back to the Micro- -- the Policy No. 1: 12:30:43
16 Develop- -- "Developers will have the freedom to
17 choose whether to distribute their apps for Windows
18 through our app store."

19 Now, I know you just said that was not
20 adopted for the Xbox store. My question is: Why 12:30:55
21 not?

22 MR. CHIAPPETTA: Asked and answered.

23 THE DEPONENT: I -- I feel like I
24 answered this earlier when discussing the logic of
25 our hardware subsidy in order to make a special 12:31:10

1 purpose device. 12:31:15

2 When we're looking at the Windows'

3 ecosystem system MPCs, this is a general purpose

4 platform, and they have very different uses. They

5 have very different numbers of users, and, 12:31:31

6 therefore, the policies would not apply because

7 they are very different devices.

8 Q. (By Mr. Calandra) Is that --

9 MR. CHIAPPETTA: Counsel --

10 Q (By Mr. Calandra) Is that the only -- 12:31:44

11 MR. CHIAPPETTA: -- can you -- Counsel, I

12 just wanted to alert you to the fact that it's

13 after 12:30 here on the West Coast, and you said we

14 could take lunch then, but feel free to finish this

15 question. 12:31:51

16 MR. CALANDRA: What I would like to do is

17 finish this document, and then we'll take lunch,

18 okay?

19 MR. CHIAPPETTA: Can you do so in the

20 next few minutes? 12:31:57

21 MR. CALANDRA: Up to the witness.

22 MR. CHIAPPETTA: Sorry?

23 Q (By Mr. Calandra) Let's -- let me -- let

24 me ask you to do this: Look at principles 3

25 through 10. We've looked at 1 to 2. 12:32:05

Page 154

1 that we are hearing "Can we do this on mobile?"

02:08:44

2 Q. Okay. So your customers -- there is
3 demand from your customers on Xbox to -- to have
4 streaming available on mobile, including iOS?

5 A. That's correct.

02:08:57

6 Redacted
7
8
9

10 02:09:11
11
12

13 Q. (By Mr. Calandra) Have you been involved
14 in them?

15 A. I have not.

02:09:24

16 Q. Who -- who's involved in those
17 discussions?

18 A. Primarily the Game Pass content team and
19 other members of the gaming leadership team.

20 Q. So -- so I'm just curious: What -- what
21 about your job has you involved in the discussions
22 to put streaming available on Apple, on iOS, but
23 not -- doesn't have you also involved with regard
24 to the

02:09:43

25 Redacted

02:09:55

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Redacted



02:09:57

02:10:10

02:10:22

02:10:40

02:10:50

02:11:06

Page 200

1 A. Correct. 02:52:02

2 Q. The
3 no-third-party-content-publishable-in-the-catalog
4 problem has been resolved?

5 A. Correct. 02:52:12

6 Q. As I understand it, there were two
7 remaining problems to doing the plan that you
8 proposed on the mobile app.

9 One was they would not be able to review
10 each game before it was made available, and the 02:52:21
11 second was that you didn't want to use the IAP
12 payment platform that Apple otherwise required; am
13 I right?

14 MR. CHIAPPETTA: Misstates testimony.

15 THE DEPONENT: That is not accurate. 02:52:36

16 Q. (By Mr. Calandra) Okay. Why?

17 A. The --

18 Q. Go ahead.

19 A. The -- the remaining problem was not that
20 they would need to review individually. The 02:52:42

21 remaining problem was that they wanted individual
22 app binaries for every game that also included the
23 streaming stack within each and every game and to
24 have those separately listed in the App Store.

25 What that -- 02:53:11

1 Q. Did you -- 02:53:12

2 A. -- means is that our product -- we could
3 not effectively offer a catalog -- well, let me
4 back up.

5 You -- the -- the product that we 02:53:23
6 envisioned, the product that other -- every other
7 media, entertainment company has been able to
8 deliver is you sign up for a subscription service;
9 you can move between content.

10 In the way that they had asked us to do 02:53:43
11 it, you could not easily navigate between the
12 content. You would also have a file size that was
13 five times the size of what it needed to be because
14 it would effectively have to have the streaming
15 stack in it because they would not allow us to have 02:54:04
16 a reference app, which was another thing we should
17 go through on what we had proposed.

18 And so with the streaming stack in it,
19 you have this huge file that, every time you make
20 an update to the cloud streaming service, the 02:54:19
21 result would be each and every game would have to
22 have an update, so if you had ten games or 100
23 games sitting on your phone, you are going to see
24 them all updating at the exact same time, even
25 though the game itself has no update happening to 02:54:36

Page 217

1 it. 02:54:38

2 And then, as content leaves -- the game
3 has catalogs. Just as content leaves Netflix --
4 you would have a dead app sitting on your device
5 that you would have to go and remove or it just 02:54:52
6 wouldn't work. And the whole product is about this
7 notion of content that's fresh, curated, relevant
8 being available.

9 So the fundamental thing they had
10 proposed was technically problematic, a very bad 02:55:11
11 user experience, and commercially unviable.

12 Q. If we were taking Netflix as an
13 example -- and because you are in California, I'm
14 going to use The Terminator as the movie.

15 If -- if -- if The Terminator was on 02:55:27
16 Netflix, that -- that content is fixed. That
17 doesn't change, right? Nobody changes it, unless
18 you change the ending. The Terminator content is
19 fixed.

20 However, your game content on your 02:55:37
21 streaming changes all the time; am I right?

22 A. I don't think that's the right analogy.
23 There are -- no. Our game content -- the games
24 stay the same, for the most part. I'm not aware of
25 where those are -- they -- the analogy is that new 02:56:00

Page 218

1 plumbed into IAP. 02:58:52

2 MR. CALANDRA: I would like to take a

3 look at what I will mark as Defendants'

4 Exhibit 618. It's Tab 9.

5 (Exhibit 618 was marked for 02:58:59

6 identification by the court reporter and is

7 attached hereto.)

8 MR. CALANDRA: This is a document

9 produced by Microsoft called "Project xCloud -

10 User experience for game streaming on iOS," and 02:59:04

11 it's Bates-stamped -8073 to -8099.

12 Q. (By Mr. Calandra) Let me know when you

13 have that document in front of you.

14 A. I have it in front of me. I'm reviewing

15 it. 02:59:47

16 Q. Okay. First question is: Have you seen

17 it before?

18 A. Yes, I have seen this document.

19 Q. Okay. And then my next question is:

20 What is this document? 03:00:00

21 A. Do you have a date on this document?

22 Q. I do not.

23 A. I will need to review it to put in

24 context from a timeline perspective.

25 Q. Sure. 03:00:27

Page 221

1 payment-processing system that was not the IAP that 03:21:45
2 Apple used, correct?

3 A. Not fully correct, no.

4 Q. Well, in what sense is it not fully
5 correct? I -- I have seen a number of emails 03:22:02
6 where -- where Microsoft was saying, "We don't want
7 to use your IAP processing system; we want to use
8 our own."

9 A. We also said we can use IAP if we can
10 aggregate transactions at Game Pass and not at the 03:22:15
11 individual game level.

12 Q. Okay. But at one -- at some point in
13 time, the -- the initial proposal from Microsoft
14 was: We don't want to use Apple, your IAP
15 processing system. We want to use our own. 03:22:29

16 MR. CHIAPPETTA: Objection --

17 Q. (By Mr. Calandra) At some point in time
18 Microsoft said that, correct?

19 MR. CHIAPPETTA: -- asked and answered.

20 THE DEPONENT: That is accurate -- 03:22:36

21 MR. CALANDRA: Okay.

22 THE DEPONENT: -- but we asked that
23 for -- not for commission reasons.

24 Q. (By Mr. Calandra) Whatever, but
25 Microsoft doesn't allow anyone on its X- -- Xbox 03:22:43

Page 237

1 MR. EARNHARDT: Just let me -- let me 03:57:42
2 just go ahead log an objection that this is an
3 incomplete exhibit.

4 MR. CALANDRA: Okay.

5 MR. CHIAPPETTA: Join. 03:57:47

6 Q. (By Mr. Calandra) So -- so picking up on
7 the first full paragraph of the page in question,
8 it says, second sentence, "Xbox chief marketing of
9 Yusuf Mehdi" -- M-E-H-D-I -- "spoke to
10 GamesIndustry about the margins they'll be making 03:58:02
11 on the Xbox One at launch, and there's little room
12 for error."

13 And then here's the quote from -- from
14 Xbox chief marketing officer. It says, quote:
15 "'We're looking to break even or low margin at 03:58:13
16 worse,' he said. 'As' you -- 'As we can
17 cost-reduce our box as we've done 360, we'll
18 continue to price reduce and get even more
19 competitive with our offering. You've seen us over
20 the years constantly be focused on profitability 03:58:29
21 and improving year over year. If you look at 360
22 that platform lasted for seven or eight years and
23 it's going to go for another three years. It's
24 incredibly profitable now in the tail.'"

25 Do you agree with the statement here that 03:58:49

1 the Xbox 360 console is incredibly profit -- 03:58:50
2 profitable now in the tail?

3 MR. CHIAPPETTA: Objection. Vague.
4 Calls for speculation.

5 You can answer if you know what that 03:59:07
6 means.

7 THE DEPONENT: This is a seven-,
8 eight-year-old document that I suspect -- I think
9 this is going to the fact the business model in
10 this closed gaming ecosystem we subsidize the 03:59:34
11 consoles, we invest in content, and, in the end,
12 the content pays for the subsidy that we have to
13 incur on making the hardware.

14 Q. (By Mr. Calandra) So do you -- do you
15 not agree that the console, while maybe making a 03:59:58
16 loss in the original period because the costs are
17 high, eventually the costs come down, and then the
18 console becomes incredibly profitable in the later
19 years?

20 A. I don't agree with that. 04:00:13

21 MR. CHIAPPETTA: Misstates testimony.

22 Q. (By Mr. Calandra) Okay. And what's your
23 basis for disagreeing?

24 A. I don't believe the precise words are
25 accurate. I -- the console does not become 04:00:26

1 Q. So you would agree with me it's -- 04:42:14
2 Microsoft has paid some significant amount of money
3 to Apple in -- in commissions in -- on the
4 App Store, correct?

5 A. Sure. I don't know that, though. 04:42:26

6 MR. CALANDRA: Okay. I want to go back
7 to a couple more documents and ask you, you know,
8 if you have seen them before.

9 Hang on. Oh, here they are.

10 Okay. The first one is -- hold on -- is 04:42:41
11 dated August 12th, 2020.

12 This is, Lizzy, Tab 20. It begins with
13 Microsoft Bates stamp -14. This will be
14 Exhibit 621.

15 (Exhibit 621 was marked for 04:43:56
16 identification by the court reporter and is
17 attached hereto.)

18 MR. CALANDRA: And for the record, it's
19 called "Gaming Content & Platform Partnerships Deep
20 Dive." 04:44:17

21 THE DEPONENT: Okay.

22 Q. (By Mr. Calandra) My first question is
23 simply: Have you seen this document before?

24 A. I don't believe so.

25 Q. This is not a document that you would 04:44:40

Page 278

1 A. Okay. 04:46:23

2 Q. -- it says "Xbox Platform Agreement
3 Framework."

4 Do you know what -- do you have an
5 understanding of what this is depicting? 04:46:29

6 A. Take a moment to review it.

7 MR. CHIAPPETTA: Calls for speculation.

8 Q. (By Mr. Calandra) Well, let me ask the
9 question: Does -- does what's being depicted on
10 page 16 come within your job responsibilities, or 04:47:26
11 is this somebody else's department?

12 A. Somebody else's department.

13 Q. Okay. So -- so would you be speculating
14 if you were to explain to me what's actually being
15 depicted on page 16? 04:47:39

16 A. Yes, I would be.

17 Q. Okay. That's fair.

18 Let me see if I have any more questions
19 on the document. Hang on.

20 MR. CHIAPPETTA: Still calls for 04:47:54
21 speculation, by the way.

22 MR. CALANDRA: Okay. You can put this
23 document down.

24 THE DEPONENT: Okay.

25 MR. CALANDRA: Okay. I'm going to show 04:48:08

Page 280

1 you another document. This is one is called "GGPD 04:48:08
2 Portfolio Team - Executive Portfolio Update." It's
3 dated August 2020, and we'll mark this Exhibit 622.
4 Tab 21.

5 (Exhibit 622 was marked for 04:48:24
6 identification by the court reporter and is
7 attached hereto.)

8 THE DEPONENT: Okay.

9 Q. (By Mr. Calandra) All right. Have you
10 ever seen this document before? 04:48:34

11 A. Let me take a moment to flip through it.

12 Okay. I have looked at it.

13 Q. Have you seen --

14 A. Was there a question?

15 Q. Have you seen this document before today? 04:49:30

16 A. I have not.

17 Q. Okay. It did not come from your files,
18 as far as you know?

19 A. It did not.

20 Q. Okay. And you had nothing to do with its 04:49:39
21 drafting, I assume?

22 A. I did not.

23 Q. Okay. I assume you have no emails that
24 relate to this document, right?

25 A. I did not state that. This document 04:50:02

Page 281

1 could exist in my email and -- but I don't know. 04:50:04

2 Q. Okay. Well, to the extent you don't
3 remember seeing this document before, do you
4 remember seeing any emails relating to this
5 document before? 04:50:14

6 A. I do not.

7 MR. CALANDRA: Okay. You can put this
8 document down, too.

9 All right. Let's take a look at Tab 22,
10 which, this is another document. We'll mark it as, 04:50:30
11 I think -- what are we up to, 627?

12 MR. CHIAPPETTA: -3.

13 MR. CALANDRA: I'm sorry, 623. Thank
14 you.

15 This is a document called "CY2009 Game 04:50:39
16 Industry Profit - Gaming Business Planning &
17 Strategy Team May 2020." It does not have a Bates
18 stamp on it.

19 (Exhibit 623 was marked for
20 identification by the court reporter and is 04:50:51
21 attached hereto.)

22 Q. (By Mr. Calandra) You can flip through
23 it and take your time. My first question is: Have
24 you seen this document before?

25 A. Okay. I'm ready. 04:52:11

Page 282

1 Q. Have you seen this document before? 04:52:13

2 A. I have seen this document before.

3 Q. In -- in connection with what have you

4 seen this document?

5 A. In connection with my day-to-day business 04:52:19

6 role.

7 Q. Have you prepared this document?

8 A. I have not.

9 Q. Okay. Was it prepared at your direction?

10 A. It was not. 04:52:31

11 Q. Okay. Who prepared it, do you know?

12 A. If I look at the title, it looks like the

13 Gaming Business Planning & Strategy Team.

14 Q. This is a different team than your --

15 than -- that -- that team doesn't fall within your 04:52:47

16 area of responsibility?

17 A. They do not.

18 Q. Okay. Now, did they -- did they, in the

19 ordinary course, provide this document to you to

20 take a look at? 04:52:58

21 A. Yes, they would have.

22 Q. Okay. And did you provide any comments

23 on this document?

24 A. Not that I'm aware of or recall.

25 Q. Did you meet and talk to anybody about 04:53:09

Page 283

1 the preparation of this document? 04:53:10

2 A. I did not.

3 Q. Okay. Do you know where the information
4 on this document, the financial information, came
5 from? 04:53:19

6 MR. CHIAPPETTA: Compound.

7 THE DEPONENT: I don't know how to answer
8 that because there's a lot of data in this
9 document.

10 Q. (By Mr. Calandra) Well, I can take you 04:53:33
11 to different pages, if you want.

12 A. Okay.

13 Q. Let's take a look at page 23 of the
14 document. This is -- this is the one -- the title
15 on top says "CY2019 Reported SW&S Revenue vs. 04:53:42
16 Profit Margin by Company (1 of 2)."

17 Do you know how the information -- do you
18 know where the information on this document came
19 from?

20 A. I do not. 04:54:04

21 Q. Do you have any understanding as to
22 whether the information on this document is correct
23 and reliable?

24 MR. CHIAPPETTA: Objection. Are you
25 talking about this page still? 04:54:15

Page 284

1 MR. CALANDRA: On this page. I'm sorry. 04:54:17
2 On page 23, I think.
3 THE DEPONENT: I have no knowledge of
4 whether this is correct or reliable, no.
5 Q. (By Mr. Calandra) Okay. Did -- do you 04:54:24
6 rely upon the information contained in this
7 document to do your business?
8 MR. CHIAPPETTA: Objection. Compound.
9 MR. CALANDRA: The entire document. I am
10 talking about the entire exhibit. 04:54:33
11 MR. CHIAPPETTA: Same objection.
12 THE DEPONENT: No, I do not rely on this
13 document to do my business.
14 Q. (By Mr. Calandra) Have you used
15 Exhibit 623 in any way in -- in performing your 04:54:42
16 duties for Microsoft?
17 A. No, I have not.
18 Q. Okay. And you have had no discussions
19 with anyone about this doc- -- the content of this
20 document? 04:54:56
21 MR. CHIAPPETTA: Other than to the extent
22 you had any conversations with counsel.
23 THE DEPONENT: I don't recall any depth
24 conversation on this document. There are lots of
25 documents like this that come up. They get 04:55:10

Page 285

1 produced, and whether or not I had conversations on 04:55:14
2 this one specifically, I don't recall.

3 Q. (By Mr. Calandra) Okay. You haven't had
4 any conversations with Epic's counsel about
5 document 623, correct? 04:55:27

6 A. To repeat: I have not had any
7 conversations with Epic's counsel.

8 MR. CALANDRA: Okay. All right.
9 Let's -- let's go off the record for about
10 ten minutes. I'm going to see -- I'm pretty much 04:55:41
11 at the end, but I want to just see if I have a few
12 more follow-up questions.

13 THE VIDEOGRAPHER: We are going off the
14 record. The time is 4:55.

15 (Recess taken.) 04:55:55

16 THE VIDEOGRAPHER: We are at five hours
17 and 49 minutes on the record. We are going back on
18 the record. The time is 5:03.

19 MR. CALANDRA: Yeah, are we all back? I
20 don't see Wes. Wes is -- is Wes on? 05:04:00

21 THE VIDEOGRAPHER: He's not in the
22 breakout room -- oh, actually, they are in the Epic
23 room.

24 (Discussion off the stenographic record.)

25 MR. CALANDRA: So I -- I am done with my 05:04:27

1 questioning, so unless you guys have questions, and 05:04:28
2 then I'll reserve my right to come back and ask
3 more questions. Other than that, I'm done.

4 MR. EARNHARDT: Yeah, we don't -- we
5 don't have anything. 05:04:40

6 MR. CHIAPPETTA: Earlier, we had
7 agreed -- earlier, I believe that we all agreed --
8 well, maybe we didn't all agree, but both Epic's
9 counsel and we requested this be designated in its
10 entirety as "Highly Confidential." 05:04:49

11 MR. CALANDRA: Okay.

12 MS. LEE: "Outside Attorneys' Eyes Only,"
13 please.

14 MR. CALANDRA: Okay.

15 (Court Reporter asks for clarification.) 05:05:05

16 MR. CALANDRA: All right. Well, thank
17 you, Ms. Wright. I really appreciate your time,
18 and I'm glad we finished at a decent hour.

19 THE DEPONENT: You as well. Have a good
20 weekend. 05:05:14

21 MR. CALANDRA: You too.

22 THE VIDEOGRAPHER: We are off the record
23 at 5:05 p.m., and this concludes today's testimony
24 given by Lori Wright. The total number of media
25 units used was one and will be retained by 05:05:23

Page 287